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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,510	02/10/2004	Yuan-Yao Shen	MR2723-354	8699
4586	7590	09/22/2006	EXAMINER	
ROSENBERG, KLEIN & LEE 3458 ELLICOTT CENTER DRIVE-SUITE 101 ELLICOTT CITY, MD 21043			TOWA, RENE T	
			ART UNIT	PAPER NUMBER
			3736	

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/774,510	SHEN, YUAN-YAO	
	Examiner	Art Unit	
	Rene Towa	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is responsive to an amendment filed July 13, 2006. Claims 1-5 and 15 are pending. Claims 6-14 have been cancelled. Claims 1-5 have been amended. Claim 15 has been added.

Drawings

2. The objections are withdrawn due to amendments.

Claim Objections

3. The objections are withdrawn due to amendments.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1-3 rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida et al. (US Patent No. 6,078,829) in view of Iwabuchi et al. (US Patent No. 6,327,495).

In regards to claim 9, Uchida et al. disclose a physiological function detecting system, comprising:

An earphone 1 including a physiological function detecting unit 6, said physiological function detecting unit 6 including a sensor module having an output coupled to a signal converting module; and

a portable entertainment product coupled to said earphone 1 for output of audio entertainment signals thereto and receiving physiological signals from an output of said signal converting module, said portable entertainment product (9, 10) including:

(a) a receiving circuit 10 having an input coupled to said output of said signal converting module for receiving said physiological signals therefrom (i.e. capable of receiving signals from said signal converting module and said control interface 14, capable of identifying said signals (i.e. through biological information arithmetic unit 12), and of transmitting said signals to each output module (8, 9) to be executed);

(b) a display module 9 coupled to the receiving circuit 10 for displaying physiological signals;

(c) a memory module 13 coupled to the receiving circuit for storing said physiological signals; and

(d) a control interface 14 coupled to the receiving circuit 10 for initiating an alarm output responsive to detection of said physiological signals exceeding a pre-established limit (see fig. 4; column 4/lines 44-46 & 61-62; column 5/lines 5-24, 37-42 & 45-58);

wherein the portable entertainment device is a CD player (see column 5/lines 45-48).

Uchida et al. disclose a system, as described above, that teaches all the limitations of the claim except Uchida et al. does not explicitly disclose displaying data relating to the operation of the portable electronic device and the physiological signals. However, Iwabuchi et al. disclose a system wherein a portable system displays both data relating to the operation of the portable system and the physiological signals; wherein the portable electronic device is mobile phone (see column 1/lines 57-63; column 5/lines 8-14, 20-32 & 57-62).

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Since Uchida et al. teaches outputting data relating to the operation of the portable system (i.e. music) and/or physiological data (see column 5/lines 45-48), it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a system similar to that of Uchida et al. with a display for outputting data relating to the operation of the portable system and physiological signals similar to that of Iwabuchi et al. since such a modification would amount to a design choice. It has previously been held that changing aesthetic design (i.e. type of output means such as audio or visual) is not patentable--See *In re Seid*, 161 F.2d 229, 231, 73 USPQ 431, 433 (CCPA 1947).

Moreover, in regards to claim 3, it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a system similar to that of Uchida et al. with a portable system similar to that of Iwabuchi et al. since they both constitute intelligent terminal units (i.e. both include a microprocessor) and can be carried with and cause no problem for keeping in certain places to provide health management (see Iwabuchi et al., column 1/lines 57-63).

6. Claims 4-5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida et al. ('829) in view of Iwabuchi et al. ('495) further in view of Bye et al. (6,647,345) even further in view of Ali et al. (US Patent No. 6,770,028).

Uchida et al. as modified by Iwabuchi et al. disclose an physiological function detecting system, as described above, that teaches all the limitations of the claims except Uchida et al. as modified by Iwabuchi et al. do not disclose a detecting unit that is insertable into a slot or opening. However, Bye et al. discloses a detecting unit 2 that

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is disposed apart from a portable electronic device 20 and said detecting unit 2 is insertable into a slot or opening 34 (see fig. 1). It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide an physiological function detecting system similar to that of Uchida et al. as modified by Iwabuchi et al. with a detecting unit similar to that of Bye et al. in order to releasably exchange the type of detecting unit (i.e. with different types of sensors).

Uchida et al. as modified by Iwabuchi et al. and Bye disclose an physiological function detecting system, as described above, that teaches all the limitations of the claims except Uchida et al. as modified by Iwabuchi et al. and Bye do not disclose a push button. However, Ali et al. disclose a physiological function detecting system 610 comprising a push button 1120 disposed on a panel (see figs. 11A). It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a function detecting system similar to that of Uchida et al. as modified by Iwabuchi et al. and Bye with a docking system comprising a push button similar to that of Ali et al. in order to releasably dock a portable device with the function detecting system (see Ali et al., column 15, at lines 49-55).

Response to Arguments

7. Applicant's arguments filed July 13, 2006 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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US Patent No. 5,917,414 to Oppelt et al. discloses a body worn monitoring system for obtaining and evaluating data from a person.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rene Towa whose telephone number is (571) 272-8758. The examiner can normally be reached on M-F, 8:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RTT


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